

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA and  
INTERNAL REVENUE SERVICE,

Petitioners,

Misc. No.07-13 JB

vs.

KENT CARTER,

Respondent.

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**USA and IRS RESPONSE TO  
MOTION TO DENY CERTAIN MOTIONS**  
[Doc. 14, filed 10/31/07, Motion to Deny certain motions]

The United States of America and the Internal Revenue Service (“IRS”), through undersigned counsel, and hereby respond to Respondent Carter’s “*Motion to Deny United States’ Motion for Contempt; Motion to Dismiss for Lack of Jurisdiction; Motion to Purge Any Behavior Presumed to be Contemptuous; Motion for the Court to Withdraw its Order of Compliance and Issue an Order to Show Cause*” (Doc. 14).

The IRS has been trying to obtain the summoned information from Respondent Carter since serving two IRS summonses on him in August 2006. (*See* Doc. 1.) The Government filed a Petition to Enforce both IRS Summonses on March 6, 2007, which was served on Carter on April 23, 2007. (Doc. 2.) A show cause hearing was held on August 6, 2007 (Doc. 7), at which time Carter was ordered to meet with the IRS representative on August 28, 2007 (Doc. 8).

That court-ordered meeting took place, following which the Government filed a Motion for Contempt (Doc. 11), stating the additional information still needed from Carter in order to satisfy both summonses, as follows:

In order to satisfy [the first Summons for Form 1040 information], the IRS requests that Taxpayer be ordered to provide his bank account records from Western Commerce Bank from January 1, 2002 through December 31, 2005. *Id.* (It is within the scope of the Summons for the IRS to require a taxpayer to produce items in the taxpayer's control or possession.)

(Doc. 11 ¶ 4 (footnote omitted; reference to exhibits omitted).)

In order to satisfy [the second Summons for a financial statement], the IRS requests that Taxpayer be ordered to provide: his bank account records for this period (08/01/2005 to 07/31/2006); the names of his customers who paid him \$3,000 per month during this period; and the tenant names and addresses of rental properties for this period so the IRS can levy the rents.

(Doc. 11 ¶ 7 (reference to exhibits omitted).)

In Carter's *Motion to Deny* (Doc. 14), the IRS has learned two new pieces of information for the first time, namely: (i) that he claims that obtaining his bank statements would be a financial burden for Carter (Doc. 14 p. 6 ¶ 16); and (ii) that he has a medical history that he claims interferes with his memory (Doc. 14 p. 4 ¶¶ 6, 7 and supporting exhibits).

Therefore, the IRS will pursue its investigation of Carter via other means, and will not pursue Carter further for enforcement of these two particular summonses. (Doc. 1, Exhibits A1 & A2.)

In conjunction with this Response, the IRS will also submit draft dismissal order to Carter for his approval as to form, and will forthwith file a motion to dismiss.

Respectfully submitted,

LARRY GOMEZ  
United States Attorney

Electronically filed 11/16/07  
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I hereby certify that on November 16, 2007, I filed the foregoing electronically through the CM/ECF system, and that a true and correct copy of the foregoing was mailed, postage prepaid, by depositing in the United States mail to:

Kent Carter  
P.O. Box 5033  
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